Arrest was made July 16, 1910, and Turgeon was adjudicated a bankrupt July 18, 1910. Application was then made by him for a writ of habeas corpus for discharge from arrest. *Held,* that the application should be granted. *Turgeon* v. *Emery* (1910), — D. C. D. Maine —, 182 Fed. 1016.

The principal question in the case arose in regard to the meaning of the term "arrest" as employed in § 9 of the Bankruptcy Act of 1898. That section provides that, "a bankrupt shall be exempt from arrest upon civil process," with certain exceptions not applicable to this case. The court declared this to mean not only that the bankrupt shall not be taken into custody, but also that he shall not be detained in custody after he becomes a bankrupt, believing this to be in keeping with the spirit and meaning of the bankrupt law. In a former decision it was held that the bankrupt was not to be exempt if arrested before filing his petition. *In re Claiborne,* 109 Fed. 74, 5 Am. B. R. 812. This view is supported on the ground that arrest means the first apprehension, not continued detention, that only the bankrupt is to be exempt and not the debtor, consequently proceedings in bankruptcy must be instituted before the first act of apprehension; see LOVELAND, BANKRUPTCY, p. 658. Cases decided under the Bankruptcy Act of 1867 adhered to this view but that act provided for exemption from arrest "during the pendency of proceedings in bankruptcy." Act of 1867, § 26. The doctrine of the Claiborne case was denied in *People etc.* v. *Erlanger,* 132 Fed. 883, 13 Am. B. R. 197, which is the case relied upon for its holding by the court in the principal case. If "arrest" can be held to apply to the continued detention, undoubtedly the court in the principal case is correct. That an arrest is taking or a detaining of the person see *United States* v. *Benner,* Fed. Cas. 14, 568, 24 Fed. Cas. 1084; *Rhodes* v. *Walsh,* 55 Minn. 542, 57 N. W. 212.

BANKRUPTCY—EFFECT UPON A SURETY OF BANKRUPT'S DISCHARGE.—An attachment suit in a justice's court was decided in favor of the plaintiff in that suit. The defendant appealed giving the usual statutory appeal bond with sureties. While the appeal was pending the defendant was adjudged a bankrupt and received his discharge. The defendant then interposed an amended plea in the attachment suit giving notice of his discharge in bankruptcy. From an order discharging the surety on the appeal bond because of the principal's discharge in bankruptcy, an appeal was taken. *Held,* that the surety was not discharged from his obligation on the bond. *Brown Coal Co.* v. *Antezak* (1910), — Mich. —, 128 N. W. 774.

The question of the liability of a surety upon an appeal bond, the appeal being decided adversely to the principal, but pending which the principal has been discharged in bankruptcy from the liability sued upon, has long been a vexed one among the various courts in this country. Section 16 of the Bankruptcy Act of 1898 provides that, "the liability of a * * * surety for a bankrupt shall not be altered by the discharge of such bankrupt." A similar provision was contained in the Act of 1867. It is because of these provisions that much of the difficulty has arisen. The New York courts hold that the surety is not discharged as the condition of the bond on appeal is, that if the judgment of the lower court is affirmed, the obligation of the bond becomes

fixed, *Knapp* v. *Anderson,* 71 N. Y. 466; *McCombs* v. *Allen,* 82 N. Y. 114. The federal courts under the act of 1867 are in accord with the New York rule; see *Holyoke* v. *Adams,* 10 N. B. R. 270; see also *Fisse* v. *Einstein,* 5 Mo. App. 78; *Slusher* v. *Hoppins,* 80 Ky. Law R. 257. On the other hand the Massachusetts courts view the condition of the appeal bond as one to pay only in case a valid judgment is rendered against the obligor and hold that as no valid judgment can be rendered after the principal has been discharged in bankruptcy the surety cannot be liable, the event not having happened upon which the liability of the surety was to depend. *Hamilton* v. *Bryant,* 114 Mass. 543; in accord, *Klipstein* v. *Allen-Miles Co.,* 136 Fed. 385; *Goyer Co.* v. *Jones,* 79 Miss. 253, 8 Am. B. R. 437; *Laffoon* v. *Kerner,* 138 N. C. 281; *House* v. *Schnadig,* 235 Ill. 301; BRANDENBURG, BANKRUPTCY, § 415. This also seems to be the view of the United States Supreme Court, see *Wolf* v. *Stix,* 99 U. S. 1. A further reason in support of this view is given in *Laffoon* v. *Kerner,* supra: if the principal is discharged and the surety bound, the surety's right to sue for exoneration is not affected, therefore by a circuitous route the bankrupt may be made to pay a debt from which he has been discharged. The main question involved, however, seems to be, whether the state court is able to render a formal judgment against the bankrupt for the purpose of charging the sureties. *Hill* v. *Harding,* 130 U. S. 699; *In re Maaget,* 173 Fed. 232. It is a matter concerning the surety rather than the bankrupt and as it does not concern a personal right of the bankrupt nor any portion of his estate, its determination should not be affected by the bankruptcy act. That act provides that the liability of the surety shall not be affected, but whether there is any liability at all must be determined by the state in which the question arises.

CHARITIES—VALIDITY—CERTAINTY AS TO PURPOSE OF THE GIFT.—Testator devised the residue of the estate "in trust, nevertheless, to carry out certain other purposes of mine mentioned" to the trustee and another, "and relating to certain charitable and benevolent institutions and associations, to a clock tower and clock in memory of my sister; to the use of our old homestead estate as a memorial to my mother, to be known as the B. Park playgrounds," and further authorized the trustee to sell other lots and use the proceeds "in carrying out said designated plans and purposes" and to use the personal estate as the trustee might "conisder best for the interests of my estate and the foregoing plans and purposes referred to." A petition was filed against the Attorney General et al. to establish the trust: *Held,* the charitable trust was invalid for not definitely designating its objects. *Wilcox* v. *Attorney General et al.* (1911), — Mass. —, 93 N. E. 599.

One of the distinguishing characteristics of a charitable trust is the uncertainty which is permitted in describing its objects and purposes. *Dolan* v. *Macdermot,* L. R. 5 Eq. 60, 3 Ch. App. 676; *Harrington* v. *Pier,* 105 Wis. 485, 50 L. R. A. 307, 76 Am. St. Rep. 924, 82 N. W. 345. It is well settled that it is not necessary that the gift be denominated a charity. If it is so described as to show that it is charitable in its nature, that is sufficient. *MacKenzie* v. *Trustees,* 67 N. J. Eq. 652, 3 L. R. A. (N. S.) 227, 61 Atl. 1027;